

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-297-E - ORDER NO. 2022-140
FEBRUARY 24, 2022

IN RE: Petition of Lockhart Power Company for an)	ORDER GRANTING
Order Approving Accounting Treatment)	APPROVAL OF
Related to Settlement and True-up Amounts)	ACCOUNTING
Received from Duke Energy Carolinas, LLC)	TREATMENT

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the application of Lockhart Power Company (“Lockhart” or the “Company”), pursuant to S.C. Code Ann. Sections 58-3-140, 58-27-140, 58-27-230, and 58-27-1540, and applicable Commission Regulations, for approval of its proposed accounting treatment of the settlement and true-up amounts received by the Company from Duke Energy Carolinas, LLC (“DEC”). The Petition is granted, and the Commission affirms Lockhart’s request as being consistent with the public interest. Additionally, the Commission adopts the Office of Regulatory Staff’s (“ORS”) recommendation that Lockhart file annual reports.

II. FACTS AND PROCEDURAL HISTORY

Lockhart, a public utility under the laws of the State of South Carolina, filed its Petition for Approval on September 9, 2021. The Company filed an Amended Petition for Approval (“Lockhart Petition”) on September 14, 2021, addressing additional DEC refunds. ORS, a party

of record pursuant to S.C. Code Ann. Section 58-4-10(B) (Supp. 2021), completed its review, and on November 22, 2021, filed a confidential report regarding Lockhart's Petition.

Lockhart has a long-term, wholesale Power Purchase Agreement with DEC (the "Duke PPA") (Lockhart Petition, p. 2, ¶3). Lockhart generates a certain amount of energy from its own renewable resources; however, the bulk of its load is served through the Duke PPA and has been for decades. (*Id.*) Recently, Lockhart received several sums of money from DEC, as outlined below:

- 1) Lockhart received \$757,500, as a result of an audit initiated by Lockhart under the Duke PPA (covering the calendar years 2015-2018).
- 2) Lockhart received \$2,891,130.62 as a customer refund, due to the annual DEC true-up process for calendar year 2020 under the Duke PPA.
- 3) Lockhart received \$977,986.20 as part of a Coal Combustion Residuals ("CCR," typically referred to as "coal ash") settlement refund.
- 4) Lockhart will be receiving an additional refund from DEC in the amount of \$371,698.90 related to CCR insurance proceeds, for a total of \$1,349,685.10 in CCR-related refunds. This additional CCR refund is the basis for the Amended Petition, as it was received subsequent to the initial filing.

(*Id.*, p. 2, ¶5 - p. 3, ¶7).

In all, Lockhart has either received or will receive from DEC a total of \$4,998,315.72 in settlement and true-up funds (the "Settlement and True-Up Amounts"). Lockhart's liability for CCR charges from July 31, 2021 through December 31, 2028 (the term of the Duke PPA) is estimated to be \$3,878,400.00. (*Id.* at ¶¶8-9) Thus, in order to avoid what Lockhart would describes as a "rate shock" for customers, the Company filed this Petition requesting approval of certain

accounting treatment to offset the Settlement and True-Up Amounts against the future CCR charges. A summary of Lockhart's proposed accounting treatment, Exhibit A, is below.

Exhibit A

Summary of Settlement and True-Up Amounts and Proposed Treatment

Source of Funds Received from DEC	Amount
Audit of Duke PPA (2015-2018)	\$ 757,500.00
Duke PPA Annual True-Up	\$ 2,891,130.62
CCR Settlement Refund	\$ 977,986.20
CCR Insurance Proceeds	\$ 371,698.90
TOTAL	\$ 4,998,315.72

Proposed Treatment of Funds	Amount
CCR Liability	\$ 3,878,400.00
Refund to Customers Sept 2021-Aug 2022	\$ 1,119,915.72
TOTAL	\$ 4,998,315.72

(Petition, p. 8, Exhibit A).

III. APPLICABLE LAW

The Commission has jurisdiction over the rates and charges, rate schedules, classification, and practices of electrical utilities operating in South Carolina, as provided in S.C. Code Ann. § 58-27-10, et seq. Lockhart is a public utility under the laws of the State of South Carolina and is subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. § 58-3-140(A). The Commission is authorized, pursuant to S.C. Code Ann. §§ 58-3-140, 58-27-140, 58-27-230, 58-27-1540, and applicable Commission Regulations, to accept or reject Lockhart's proposed

accounting treatment of its settlement and true-up amounts. Furthermore, ORS may, subject to the approval of the Commission, establish a system of accounts to be kept by electrical utilities subject to its jurisdiction and may prescribe the way the accounts must be kept. S.C. Code Ann. § 58-27-1540.

IV. ANALYSIS

In its Petition, Lockhart asserts that its ratepayers (a/k/a customers) will benefit in the following three (3) ways if this accounting request is granted and approved by the Commission. Lockhart contends its customers will:

(1) receive an immediate decrease in rates over the next twelve (12) months as a result of the Settlement and True-up Amounts less the CCR Accrued Liability (\$1,119,915.72) refunded through Lockhart's Schedule O "Power Adjustment Clause" over a 12-month period beginning with the September 2021 bills. (Lockhart Petition, p. 4, ¶10.a).

(2) not be subject to potentially large future rate increases as a result of the CCR liability. Part of this application includes the request by Lockhart for authorization to place the estimated liability for CCR charges, which is \$3,878,400.00, in a money market or similar account (136 Account) that is an interest accruing account, which shall be applied toward future CCR charges for the benefit of customers. "The account would be used to pay future CCR charges until the CCR liability is exhausted or the account is depleted. To the extent funds remain in the account when CCR liability is exhausted, any such amounts will be refunded to customers." (Lockhart Petition, pp. 4-5, ¶10.b).

(3) receive "an immediate reduction in rates as a result of a reduction in CCR expense. Customers currently are responsible for approximately \$27,500 per month in CCR charges, and

that amount is expected to increase significantly between now and 2028. By setting aside the CCR liability amount now to pay those charges directly as they come due, customers will not only avoid rate shock later, but will begin to receive the benefit of the set-aside through an immediate reduction in CCR expense.” (Lockhart Petition, p. 5, ¶10.c).

As noted, Lockhart requires Commission approval of its accounting treatment, and ORS may make recommendations regarding the way the accounts are kept. ORS does not object to Lockhart’s Amended Petition. However, ORS made several explicit recommendations in its letter filed under seal on November 19, 2021. Likewise, Lockhart submitted its response under seal to ORS’s recommendations on December 2, 2021. Lockhart requests that its privileged information remain confidential. The Commission adopts some of ORS’s recommendations, including the requirement that Lockhart provide Annual Reports regarding the amounts owed ratepayers. Lockhart did not object to providing Annual Reports, which will track the amounts owed to its ratepayers.

V. FINDINGS OF FACT

1. Lockhart seeks Commission approval of its accounting treatment regarding certain Settlement and True-Up Amounts.
2. Lockhart has a long-term, full-requirements wholesale Power Purchase Agreement with DEC.
3. Lockhart has received or will receive from DEC a total of \$4,998,315.72 in Settlement and True-Up Amounts for the benefit of Lockhart’s customers.
4. Lockhart’s liability for CCR charges as of July 31, 2021 through December 31, 2028 (the term of the Duke PPA) is estimated to be \$3,878,400.00.

5. We find that it is just, reasonable, and in the interest of its ratepayers for Lockhart to seek to use a portion of the Settlement and True-Up Amounts to establish an account in the amount of \$3,878,400.00 to be used to pay future CCR charges until the account is depleted or the CCR charge liability is exhausted, at which time any remaining amounts, including accrued interest, will be refunded to customers.

6. We find that it is just, reasonable, and in the interest of its ratepayers for Lockhart to place the sum of \$3,878,400.00 in a money market or similar account (136 Account), with any interest accruing in the account also applied toward future CCR charges for the benefit of customers.

7. We find that it is just, reasonable, and in the interest of its ratepayers for Lockhart to apply \$1,119,915.72 in refunds DEC's monthly bills to the Company, which will then flow through to the Company's customers over a 12-month period beginning in September 2021, pursuant to the Schedule O "Power Adjustment Clause."

8. ORS requests that Lockhart file Annual Reports with the Commission and copy to ORS each January, which shall include the yearly balances of the Settlement and True-Up Charges owed to customers compared to the beginning balance of the liability for that year.

9. The Commission finds that the granting of this accounting request by Lockhart does not require a change to any of the Lockhart's existing tariffs.

VI. CONCLUSIONS OF LAW

1. The Commission has the authority to approve accounting treatment pursuant to S.C. Code Ann. §§ 58-3-140, 58-27-140, 58-27-230, and 58-27-1540, and applicable Commission Regulations.

2. Subject to the approval of the Commission, ORS may establish a system of accounts to be kept by electrical utilities subject to its jurisdiction and may prescribe the manner in which the accounts must be kept. S.C. Code Ann. § 58-27-1540 (2015).

VII. ORDERING PARAGRAPHS

IT IS THEREFORE ORDERED:

1. The Commission grants Lockhart Power Company's Petition for an Order Approving Accounting Treatment Related to Settlement and True-Up Amounts Received from Duke Energy Carolinas, LLC, with the condition that Lockhart file an Annual Report with ORS and the Commission each January, except for the first report, which must be filed by the end of February 2022.

2. The 2021-2025 rate discounts are not to be included in the Settlement and True-Up Charges. Lockhart Power Company shall update Exhibit A of its Petition to include a footnote referencing the total settlement, and the specific amount referenced in the footnote may be redacted as necessary in order to ensure confidentiality.

3. Lockhart's Annual Report shall contain the December 31st balance(s) of the Settlement and True-Up Charges owed to customers compared to the beginning balance of the liability for that year. The beginning balance shall show components of the customer liability as listed in Exhibit A of the Amended Petition. For each component, the Company must show the date initially posted to the liability account and the initial dollar amount recorded. This schedule shall include a roll-forward between the beginning and ending balance showing the monthly activity and description of the activity.

4. For the December 31st Settlement and True-Up Charges owed to customers, a schedule shall be included that demonstrates the estimated future run off of the liability balance by component by year.

5. For the December 31st balance of the CCR Liability, a schedule shall be included comparing the balance to its beginning balance for that year. This schedule shall include a roll-forward between the beginning and ending balance showing the monthly activity and description of the activity.

6. For the December 31st balance of the money market account (or other similar account that holds the deposited refunds), a schedule shall be included comparing the balance to its beginning balance for that year. This schedule shall include a roll-forward between the beginning and ending balance showing the monthly activity and description of the activity.

7. For each account presented in the Annual Report, Lockhart must show the general ledger account name and general ledger account number. The Annual Report may be in the form of a spreadsheet or any other document, as long as the required information is accessible.

8. The Annual Report must be filed with the Commission and a copy provided to ORS. In addition to the requirements ordered above, the Annual Report shall also include the yearly balances of the Settlement and True-Up Charges owed to customers compared to the beginning balance of the liability for that year. Upon request, Lockhart shall serve a copy upon the Consumer Advocate when filing the Annual Report with the Commission and ORS.

9. Lockhart is authorized by the Commission to use a portion of the Settlement and True-Up Amounts to establish an account in the amount of \$3,878,400.00 which must be used to pay future CCR charges until the account is depleted or the CCR charge liability is exhausted, at

which time any remaining amounts in the account, including accrued interest, shall be refunded to the customers of Lockhart.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:




Justin T. Williams, Chairman
Public Service Commission of
South Carolina